

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

**KENNY S. THOMAS, ET AL.,
APPELLANTS
vs.**

**GRANT THORNTON LLP,
RESPONDENTS**

DOCKET NUMBER WD78122

DATE: OCTOBER 6, 2015

Appeal from:

The Circuit Court of Jackson County, Missouri
The Honorable Margene Burnett, Judge

Appellate Judges:

Division Two: Thomas H. Newton, Presiding Judge, Victor C. Howard, Judge and Mark D. Pfeiffer, Judge

Attorneys:

P. John Brady, for Appellants

Fred L. Sgroi, for Respondent

MISSOURI APPELLATE COURT OPINION SUMMARY

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

KENNY S. THOMAS, ET AL., APPELLANTS

v.

GRANT THORNTON LLP, RESPONDENTS

WD78122

Jackson County, Missouri

Before Division Two: Thomas H. Newton, Presiding Judge, Victor C. Howard, Judge and Mark D. Pfeiffer, Judge

Kenny and Eileen Thomas and Kelly and Mandy Thomas (collectively “the Thomases”) appeal the judgment of the trial court dismissing their claims for fraudulent and negligent misrepresentation, breach of fiduciary duty, and professional negligence against Grant Thornton LLP as time-barred by the Kansas two-year statute of limitations, K.S.A. §§ 60-513(a)(3) & (4)(2005). The Thomases contend that the trial court erred in dismissing their petition because their claims accrued in Missouri in February 2009 and, due to a series of tolling agreements executed by the parties, were not time-barred under Missouri’s five-year statute of limitations for general torts and fraud, § 516.120, RSMo 2000, when they filed their petition in June 2014. The judgment is affirmed.

AFFIRMED.

Division Two holds:

The Thomases were capable of ascertaining that they had sustained damages from the use of abusive tax shelter schemes sold to them by Grant Thornton when they received the notices of deficiency from the IRS in September 2006 at their homes in Kansas; therefore, their claims for negligent misrepresentation, breach of fiduciary duty, and professional negligence originated in September 2006 in Kansas. Likewise, upon receipt of the notices of deficiency, the Thomases actually discovered that the tax schemes were not legitimate tax avoidance strategies as allegedly represented by Grant Thornton; therefore, their claim for fraudulent misrepresentation also accrued in September 2006 in Kansas. The Kansas two-year statute of limitations applied to the Thomases’ claims through Missouri’s borrowing statute; and the trial did not err in dismissing the claims.

Opinion by: Victor C. Howard, Judge

Date: October 6, 2015

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